

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

YOANDY FERNANDEZ-MORALES,

Plaintiff

Case No. 3:23-cv-00124-MMD-CLB

ORDER

v.

GAZZINI, et al.,

Defendants

I. DISCUSSION

Plaintiff, who is an inmate in the custody of the Nevada Department of Corrections (“NDOC”), has filed a motion for “leave to add Defendants to correct error by Plaintiff.” The Court will not piecemeal Plaintiff’s complaint together from multiple filings. Plaintiff’s operative complaint must contain all claims, defendants, and factual allegations that Plaintiff wishes to pursue in this lawsuit. As such, the Court denies Plaintiff’s motion.

The Court notes that the complaint does not appear to contain any allegations about the additional Defendants. The Court grants Plaintiff leave to file a fully complete first amended complaint within 30 days. Plaintiff may include any additional Defendants, as well as factual allegations about those Defendants, in an amended complaint. If Plaintiff does not file a fully complete amended complaint, the court will screen his initial complaint (ECF No. 1-1).

If Plaintiff chooses to file a first amended complaint, he is advised that a first amended complaint supersedes (replaces) the original complaint, and, thus, the first amended complaint must be complete in itself. *See Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that “[t]he fact that a party was named in the original complaint is irrelevant; an amended pleading supersedes the original”); *see also Lacey v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir. 2012) (holding that for claims dismissed with prejudice, a plaintiff is not required to reallege such claims

1 in a subsequent amended complaint to preserve them for appeal). Plaintiff's first
2 amended complaint must contain all claims, defendants, and factual allegations that
3 Plaintiff wishes to pursue in this lawsuit. Moreover, Plaintiff must file the first amended
4 complaint on this Court's approved prisoner civil rights form, and it must be entitled "First
5 Amended Complaint."

6 **II. CONCLUSION**

7 For the foregoing reasons, IT IS ORDERED that Plaintiff's motion for leave to add
8 Defendants (ECF No. 5) is DENIED.

9 It IS FURTHER ORDERED that Plaintiff is granted leave to file a single complete
10 first amended complaint. If Plaintiff chooses to file a first amended complaint, Plaintiff will
11 file the first amended complaint within 30 days from the date of entry of this order.

12 IT IS FURTHER ORDERED that the Clerk of the Court will send to Plaintiff the
13 approved form for filing a § 1983 complaint, instructions for the same, and a copy of his
14 initial complaint (ECF No. 1-1). If Plaintiff chooses to file a first amended complaint, he
15 must use the approved form and he will write the words "First Amended" above the words
16 "Civil Rights Complaint" in the caption.

17 IT IS FURTHER ORDERED that, if Plaintiff does not timely file a first amended
18 complaint, the Court will screen the original complaint (ECF No. 1-1).

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20 DATED THIS 30th day of May 2023.

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22 UNITED STATES MAGISTRATE JUDGE
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